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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,030	09/20/2001	William B. Boyle	K35A0978	4046

26332 7590 01/11/2006

WESTERN DIGITAL TECHNOLOGIES, INC.
ATTN: SANDRA GENUA
20511 LAKE FOREST DRIVE
E-118G - INTELLECTUAL PROPERTY DEPARTMENT
LAKE FOREST, CA 92630

EXAMINER

CHEVALIER, ROBERT

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/960,030

Applicant(s)

BOYLE ET AL

Examiner

Bob Chevalier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 4-5, 8, 11-12, 15, and 17, are rejected under 35 U.S.C. 102(e) as being anticipated by Elliot et al.

Elliot et al discloses a video recording/reproducing apparatus that shows all the limitations recited in claims 1, 15, and 17, including the feature of a digital video recorder (DVR) for use with a monitor and a set top box (STB) (See Elliot et al's Figure 2, components 100, and 200), the feature of the STB for demodulating program data from a program signal received over a communication channel and for generating a STB graphical user interface (GUI) (See Elliot et al's Figure 2, components 110, and 300), the feature of the STB comprising a DVR interface (See Elliot et al's Figure 2, component 130), the feature of the DVR storing the program data received from the STB (See Elliot et al's Figure 2, component 220), the feature of the plurality of program identifiers (See the electronic program guide shown in Elliot et al's column 4, lines 30-37), the feature of the STB interface for communicating with the STB over the DVR interface (See Elliot et al's Figure 2, components 210, 130), the feature of the DVR controller maintaining and communicating to the STB the plurality of program identifiers

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wherein the STB is responsive to the plurality of program identifiers to modify at least one selected operation of the STB as specified in the present claims 1, 15, and 17. (See the capability of storing the electronic program guide in the memory of the DVR and the capability of retrieving the stored electronic program guide and communicating the same to the viewer by displaying it on the display 300 via the STB, wherein appropriate commands can be generated; Applicant's attention is directed to Elliot et al's column 4, lines 34-47).

With regard to claims 4-5, and 11-12, the feature of the STB uses the plurality of program identifiers to display Electronic Program Guide data in the STB GUI as specified thereof is present in Elliot et al. (See the capability of displaying Electronic Program Guide in the display means as shown by Elliot et al's Figure 2, component 300, and column 4, lines 37-40).

With regard to claim 8, the feature of the tuner for demodulating the program data from a program signal received over the communication channel and the STB graphical user interface as specified thereof is present in Elliot et al. (See Elliot et al's Figure 2, components 110, and 300).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2-3, 6-7, 9-10, 13-14, and 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliot et al in view of Official Notice.

Elliot et al discloses a video recording/reproducing apparatus that shows substantially the same limitations recited in claims 2-3, and 9-10, including the feature of the plurality of program identifiers as specified in the present claims 2-3, 9-10. (See Elliot et al's column 4, lines 34-47).

Elliot et al fails to specifically disclose the feature of the plurality of program identifiers identifying respective programs scheduled for recording or recorded by the DVR as specified in the present claims 2-3, and 9-10.

Examiner takes Official Notice in that it is notoriously well known in the video recording/reproducing art to have a plurality of program identifiers of an electronic program guide identifying respective programs scheduled for recording or recorded by the DVR as specified in the present claims 2-3, and 9-10.

It would have been obvious to one skilled in the art to modify the Elliot et al's apparatus wherein the recording/reproducing means provided thereof (See Elliot et al's Figure 2, components 200, and 220) would incorporate the capability of having the plurality of program identifiers of an electronic program guide identifying respective programs scheduled for recording or recorded by the DVR in the same conventional manner as is notoriously well known in the video recording/reproducing art. Examiner has taken Official Notice. The motivation is to be able to perform in the DVR scheduled recording at any desired time as suggested in the prior art.

.With regard to claims 6, and 13, the feature of the STB uses the plurality of program identifiers to demodulate the program data identified by the program identifiers as specified thereof would be inherently present in the proposed combination indicated above. Since, during scheduled recordings video programs that are to be demodulated and recorded in the DVR would be identified based on the identifiers from Electronic Program Guide.

With regard to claims 7, and 16, the feature of the DVR receiving information identifying a program selected by the user from the STB GUI and modifying the plurality of program identifiers in response to the information identifying the program selected by the user from the STB GUI as specified thereof would be inherently present in the proposed combination indicated above. Since, the user would be able to add at any desired time new program identifiers to the already stored program identifiers in the DVR, by selecting the same from the Electronic Program Guide displayed on the display means (See Elliot et al's Figure 2, component 300).

With regard to claim 14, the feature of the tuner for demodulating the program data from a program signal received over the communication channel and the STB graphical user interface as specified thereof is present in Elliot et al. (See Elliot et al's Figure 2, components 110, and 300).

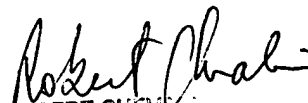
Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bob Chevalier whose telephone number is 571-272-7374. The examiner can normally be reached on MM-F (9:00-6:30), second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

B. Chevalier
January 7, 2006.


ROBERT CHEVALIER
PRIMARY EXAMINER